

**MINUTES OF THE
PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE**

Thursday, May 25, 2006 – 9:00 a.m. – Room W135 House Building

Members Present:

Sen. Michael G. Waddoups, Senate Chair
Rep. David Clark, House Chair
Sen. Gene Davis
Sen. John W. “Bill” Hickman
Sen. Peter C. Knudson
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Jackie Biskupski
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Rebecca D. Lockhart

Members Absent:

Rep. Bradley G. Last

Staff Present:

Constance C. Steffen, Policy Analyst
Allison Morgan, Policy Analyst
Joy L. Miller, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Clark called the meeting to order at 9:15 a.m.

MOTION: Rep. Jones moved to approve the minutes of the May 11, 2006 meeting. The motion passed unanimously. Sen. Madsen, Sen. Mayne, Rep. S. Clark, Rep. Dunnigan, and Rep. Lockhart were absent for the vote.

2. Competition in Utah Health Care Markets

Mr. Spencer Stokes, MountainStar Health Network, distributed a written copy of his comments. He stated that although Dr. David Argue, Economists, Inc., did a fine job in many areas and adequately addressed the RFP, the report does not include the necessary data or analysis for the Task Force to assess the competitive implication of contracting practices and the business practices and vertically integrated model of IHC (Intermountain Health Care). He indicated that the report fails to use HHI (Herfindahl-Hirschman Index) calculations to determine whether IHC possesses market power.

Mr. Scott Barlow, CEO, Central Utah Clinic, distributed a written copy of his comments. He pointed out that Dr. Argue made a good case on how market forces work in the long run. However, Mr. Barlow noted that it takes time for market corrections to occur and individual care needs are compromised during that period. The report overestimates the power of physicians in the marketplace to influence competition. He stated SelectHealth should not be conflicted between serving the business interests on the facility side of IHC and providing alternative care options available to its patients outside of the IHC system. Mr. Barlow also expressed concern with the report's lack of comparative analysis of a for-profit system versus a not-for-profit system, and felt the standards for defining these entities needed to be updated.

Mr. Scott Ideson, President, BC/BS (Regence Blue Cross/Blue Shield) agreed that the report falls short of addressing issues the Task Force is likely to want to address. He believes that the health care system is fundamentally flawed, and access to care in the state is not equal. He noted that Dr. Argue's report was more retrospective than prospective, and more of a snapshot in time. He encouraged the Task Force to look ahead to the future and try to fix the system.

Ms. Jennifer Cannaday, BC/BS, distributed "Report of David T. Scheffman" to the members. She said Dr. Scheffman, LECG, LLC, was retained by BC/BS to respond to the report submitted by Dr. Argue. His findings indicate that Dr. Argue has limited his analysis to a standard antitrust economic analysis. IHC has significant potential market power in at least some hospital markets which would require a more detailed analysis. There are widespread concerns raised by other providers and insurers with IHC's contracting and business practices that have not been dealt with adequately in Dr. Argue's report.

Mr. Greg Poulsen, IHC, distributed a written copy of his comments and Salt Lake Tribune Article, *IHC top-notch on the cheap*. He does not agree that the system is broken, and agrees with Dr. Argue's conclusions and recommendations. One area where he may recommend further study is the issue of physician owned centers and whether they are beneficial to consumers. He pointed out that although Dr. Scheffman contacted others in the health care market to help in his research, he did not contact IHC. Mr. Poulsen commented that Dr. Argue's report confirms many other studies which show that Utahns receive some of the finest health care services in the nation, at the lowest cost in the U.S. He pointed out that IHC strives to select the providers most capable of meeting the needs of the consumers.

Dr. Catherine Wheeler, President UMA (Utah Medical Association), distributed "Utah Medical Association Response to the Consultant's Report to the SB61 Task Force." The UMA is disappointed that Dr. Argue discounted the many issues that the medical community presented to him and the Task Force. Dr. Argue refers briefly to the HHI as a measurement for concentration of market power, but does not use the index or its definition to determine market power. She outlined UMA's specific concerns with the report.

Clark Newhall, MD, JD, distributed "Can the leopard change its spots?" He expressed concern with the inability of the public to be well served when marketing is combined with or even drives medicine. He suggested the Legislature build on the idea that further disclosure, transparency, and information to the consumer is the real impetus for marketplace change that would enhance the ability of all health care consumers to properly choose among competing businesses and drive the market more efficiently.

Mr. Brian Berg, ASC (Utah Ambulatory Surgery Center Association), distributed a written copy of his comments. He stated Dr. Argue's report does not adequately assess the effects of increased market concentration among payers and hospitals on overall competition and consumer welfare. The report also fails to measure, or even consider, the increased costs to consumers and employers of health plan/hospital arrangements which steer patients to more expensive hospital outpatient departments rather than more efficient, lower cost ASCs for clinically appropriate care.

Dr. Kelly Jarvis, chiropractic physician, stated that in Heber City, IHC controls approximately 95 percent of the market. Dr. Jarvis challenged Dr. Argue's definition of a "monopoly". He asked the Legislature to

remove existing impediments in order to level the playing field for all practitioners, and consider removing tax exemptions that IHC receives.

Dr. Joseph Jarvis, President, Utah Health Policy Project, distributed a written copy of his comments. He stated the conclusions of the report are not based on a statistically rigorous econometric analysis. He recommended the Task Force consider the following: 1) open the Public Employees Health Plan to Utah's small business community; 2) eliminate administrative waste in Medicaid, such as the managed care administrative fee; 3) adopt a Medicaid preferred drug list to moderate pharmaceutical prices; and 4) adopt an any willing provider strategy allowing Utah's patients to make their own choice of doctor.

Mr. Brent Scott, Acting President, UHIA (Utah Health Insurance Association), distributed a written copy of his comments. UHIA represents 98.8 percent of the commercial insurance marketplace in Utah. He noted that his comments, as outlined in the handout, represent the sentiments of the majority of the association membership regarding the report.

Mr. Kelly Atkinson, UHIA, agreed with the report's findings that any willing provider legislation is not in the best interest of Utah consumers. He also expressed UHIA's support of Dr. Argue's recommendation that the current Rural Health Care Act be revised or discarded in favor of a major overhaul.

Mr. Craig Peterson, Salt Lake Chamber, stated it is critical to maintain a competitive cost structure. Small business members are concerned about escalating health costs. The Salt Lake Chamber wants to be a full partner to explore ways to make health care affordable to the community and citizens of the state.

Ms. Christy Rabetoy, Nephrology Associates, indicated that Dr. Argue's report did not address outpatient dialysis services in Utah. She explained that SelectHealth patients are not able to access the facilities that are closer to their homes because they are not IHC facilities. These types of problems could be eliminated if "any willing provider" legislation is enacted.

Ms. Michelle Nelson, Wasatch Dialysis, stated dialysis patients are very concerned with financial issues and transportation. Many patients have had to give up their jobs and relinquish quality of care in order to accommodate travel to approved facilities.

Dr. Gary Rabetoy stated the report did not address the issues of noncompetition contracts as applied to physicians. He asked that the Task Force provide a copy of his comments to Dr. Argue to respond to the following: 1) do medical noncompetition arrangements interfere with competition, 2) can the free market system alone guarantee unrestricted and compassionate access to medical care, and 3) are the courts capable of providing timely, reasonable, and a fair and consistent legal interpretation.

Mr. Roger Ball, President, Utah Health Care Coalition, questioned how prices and quality can be considered acceptable when many people can't afford basic services and health insurance. He expressed concern that the opinions of consumers were not valued in the process when they are the ones bearing the costs. He noted the report failed to establish a benchmark. Mr. Ball suggested Dr. Argue be required to provide a more complete analysis addressing the issues that have been raised.

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The next meeting of the Task Force was scheduled for June 8 at 9:00 a.m.

MOTION: Sen. Davis moved to adjourn. The motion passed unanimously.

Chair Clark adjourned the meeting at 1:10 p.m.